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The development of heritage crime policy and practice in Wales

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Cadw is Welsh Government's historic environment service. As part of the Civil Service, we do not have direct powers of prosecution. Our role is to provide support and training to the four police forces and other organisations, such as local authorities in Wales, regarding potential offences relating to scheduled monuments, listed buildings and protected wrecks. We also develop and contribute to legislation, policy, strategies, and guidance, and provide specialist advice for offences against scheduled monuments.

At a strategic level, Cadw joined the refreshed *Memorandum of Understanding for the Prevention, Investigation, Enforcement, and Prosecution of Heritage and Cultural Property Crime and Anti-Social Behaviour* and the Alliance to Reduce Crime Against Heritage (ARCH) in March 2023, when the existing provisions were extended to Wales for the first time. It was launched at Dryslwyn Castle by Welsh Government's Deputy Minister for Arts, Sport, and Tourism.

Cadw Field Monument Warden site visit photograph of unauthorised excavation around prehistoric rock art panel. Credit: Cadw

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Operationally, the enforcement and prosecution of heritage crime is undertaken by the police and the Crown Prosecution Service (CPS). Cadw was delighted to partner our law enforcement colleagues with the launch of Operation Heritage Cymru in June 2022, hosted at Dryslwyn Castle. This operation seeks to raise the profile of heritage crime and its attritional impact, informing the public on how to report it and how to participate in Heritage Watch schemes.

Cadw has powers under the Ancient Monuments and Archaeological Areas Act 1979 to inspect unauthorised works, damage and unlawful metal detecting at scheduled monuments. Most cases are reported by the public or discovered by our Inspectorate and Properties in Care teams during inspections.

All cases are visited by a Field Monument Warden or Inspector to inspect and prepare a report. Each occurrence is reported to the police to inform national heritage crime statistics. Cases are triaged and the most serious will result in Cadw's report being sent to the police for investigation. Care is taken to ensure that archaeological concepts are explained from first principles and avoid the unnecessary use of jargon or acronyms, mindful that our report needs to be understood by lay audiences in the police, CPS and perhaps a judge and jury.

Cadw prepares impact statements for cases that go to court so that the judge can understand the historic asset's significance, how it was harmed and the consequential impact, including financial; our officers may appear as expert witnesses and be cross-examined. Low-level crime and anti-social behaviour may warrant offenders receiving out-of-court disposals, and other cases may be progressed using alternative mechanisms, for example cross-compliance breaches for those receiving rural payments on agricultural holdings.

Recent provisions obtained through the Historic Environment (Wales) Act 2016 make it easier to bring cases of unlawful damage or destruction of scheduled monuments to prosecution by limiting the defence of ignorance of a monument's status or location. The accused have to be able to show that all reasonable steps had been taken to find out whether a scheduled monument would be harmed or destroyed by their actions.

Cadw site inspection of tipped material adjacent to Caerleon Roman legionary fortress and amphitheatre. Credit: Cadw

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The Memorandum of Understanding launch on 2 March 2023 at Chepstow Castle, one of Cadw's properties in care. L to R: Deputy Chief Crown Prosecutor Paul Stimson & CPS lead for heritage and wildlife crime; Assistant Chief Constable Rachel Nolan, Essex Police & NPCC lead for heritage and cultural property crime; Dawn Bowden MS, Welsh Government's former Deputy Minister for Arts, Sport and Tourism; Duncan Wilson, Chief Executive of Historic England. Credit: Cadw

We can use complementary enforcement notices to order repairs to monuments or the fulfilment of scheduled monument consent conditions without going to court.

The introduction of temporary stop notices gave the Welsh Ministers powers to put an immediate halt to unauthorised works or other damage to scheduled monuments. We can use complementary enforcement notices to order repairs to monuments or the fulfilment of scheduled monument consent conditions without going to court.

In terms of recent casework, a farmer was reported to Cadw for tipping thousands of tons of earth and rubbish on the scheduled area outside the Roman legionary fortress at Caerleon. The case was heard at Cardiff Crown Court in 2022; the farmer was found guilty and received a fine. This was the first successful section 2 unauthorised works (Ancient Monuments and Archaeological Areas Act 1979) prosecution in Wales.

A second case involving damage to a scheduled prehistoric rock art panel at Mynydd Eglwysilan was heard at Newport Magistrates' Court in 2023. The defendant was found guilty and received a fine and a suspended prison sentence. This was the first successful prosecution of a section 28 damage offence (Ancient Monuments and Archaeological Areas Act 1979) in Wales.

Cadw's future aspirations include the wider uptake of Heritage Watch schemes and encouraging local authorities and national parks to join ARCH. Standardisation of heritage crime recording is also required to better understand occurrence, trends and hot spots.

Dr Jonathan Berry

Jon has worked for Cadw for over 20 years, and for over a decade in his current role as a Senior Inspector of Ancient Monuments and Archaeology. He is Cadw's lead for the heritage crime policy area and was lead officer supporting two recent successful prosecutions relating to scheduled monuments. He is Treasurer of the CIfA Cymru/Wales Group and a committee member of the Heritage Crime Special Interest Group. He is a Police Support Volunteer for Heritage Crime with Gloucestershire Constabulary in his spare time.